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AN

ESSAY

Discourse?

ON THE

AMENDMENTS PROPOSED

TO THE

CONSTITUTION

OF THE

STATE OF VERMONT,

BY THE

COUNCIL OF CENSORS.

DELIVERED AT

THE CELEBRATION OF

Washington's Birth Day,

AT NORWICH,

ON THE

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THE following Address is inscribed to the candid and dispassionate of all parties. The author hopes and believes, that all such will examine the reasoning attempted, and compare the facts stated, without regard to party considerations. With those, who feel an interest in promoting the turmoil and confusion, which, necessarily result from the prevalence of party spirit, reasoning will be unavailing. He would, gladly, conciliate them, but the undertaking is hopeless. He has said nothing with a view to affect the present state of parties, or to injure the feelings of any individual. He has no controversy with any person or party. He would, willingly, let the people know what many have suffered, and what, in the present state of the Judiciary, all ought to anticipate. He does not pretend that the evils, complained of, are attributable to any degree of degeneracy in one party, which is not common to both, and which might not, under like circumstances, have the same effects among its opponents. He well knows that the weakness and frailty of human nature is such, that, in times of political heat and frenzy, the power of controlling the lives, characters, and fortunes of individuals is unsafe in the hands of any men, dependent for office, on the prevailing party, on the government, or on the people. He states facts from his own observation and from history, which he believes cannot be controverted, and leaves it to others to draw the conclusions. Cause and effect have the same necessary connection in the moral and political, as in the natural world. Why then, should we shut our eyes against the light of experience, and the soundest maxims of the greatest statesmen ? The author has often found it necessary for the safety of his clients, in the discharge of his professional duties, to bear testimony against the influence of party spirit in the proceedings of the highest Judicial Court in the State, and he deems it his duty in this public manner to call the attention of the people to this important subject. Having a strong predilection for private life, he hopes never to leave his retreat. He hopes that the same obscurity, which has attended his progress into life, will mark its decline.

With these views he can say, without affectation, that he feels no interest in the success of the Amendments, but such as ought to be felt by every man in the community. He thinks them calculated to confer blessings on the present generation, and to perpetuate them to posterity. Indulging such feelings, and entertaining such opinions, he recommends them to the people, with the sincerest wishes that they may enjoy the blessings, which, he believes, will result from their adoption.

ESSAY.

FELLOW CITIZENS,

IT is well known to the Society, at whose request I now address you, that I have had little time to prepare for the occasion. Ornaments of style, polished after the similitude of the orations and speeches of the day, will not therefore be expected. What I have to deliver will be the effusion of a heart animated with a desire to promote the public welfare. A wish to communicate to the public my sentiments on a particular subject was the only motive, which prevailed with me to embrace the present opportunity. Our country is unhappily divided into two powerful parties. It is not my design to extol, or even apologize for the one; nor to arraign the motives, or condemn the conduct of the other. If any thing escape me, which shall assume the appearance of severity towards any party or individual, it will be because necessity is laid upon me to bring into notice facts, with a view to develope the nature and tendency of principles.

The necessity of internal government in any state arises from the wickedness and weakness of the different members of the community, over which it is erected. Its legitimate objects are the restraint of the wicked, and the protection of the weak members of society. By ascertaining what form of government will best effect these objects, we shall ascertain what ought to be the government of our choice.

These observations are made with a design to bring to view the proceedings of the late Council of Censors in proposing certain amendments to the present Constitution of this State, and to avail you of some of the reasons, which induced that body to recommend those important measures.

The leading objects of the amendments are,

First. The introduction of a Senate, in lieu of

the Executive Council, as a coordinate branch of the legislature.

Second. Giving the power of appointment to office to the Governor and Senate.

Third. Rendering the Judiciary department in some measure independent.

Every wise people has endeavoured to place the supreme power, that is, the power of enacting laws for the regulation of the members and interests of community, in hands, where it will be exercised with the most dispassionate regard to the highest welfare of the State.

In attempting experiments to secure this important result, it has long since been found inexpedient, that the legislative power should be exercised by *one man*, or by any single body of men. An individual will generally enact laws for the aggrandizement of himself, his family, and friends, at the expence of the good of the community. A single body of men, the more numerous the more dangerous, will often from the heat of party, or the undue influence of violent leaders, enact in a hasty and inconsiderate manner laws partial and unjust in their operation, and often abortive, not having the effect intended by their advocates. When these defects are discovered, they are soon repealed, and others equally futile enacted with equal heat and zeal, and thus the laws, which should become a permanent rule of conduct, are continually changing, and thereby deceiving and entrapping those to whom they ought to yield security and happiness. A recurrence to the history of the despotisms and pure democracies of ancient times, or even an inspection of our own Statute books, where our eyes are continually saluted with An Act to repeal an Act—An Act in addition to an Act entitled an Act to amend an Act, &c. would sufficiently establish the sentiments here advanced, but time will not permit.

By the present constitution the Governor and Council can only propose amendments to a law, or at most suspend its operation for one year. This affords them very little check on the other branch of the legislature.

By submitting the laws to the consideration, and subjecting them to the sanction of several bodies of men, time will be gained for deliberation. The undue influence of demagogues and leaders of party in one house will lose its effect in the other. Passion and prejudice will be likely to subside, while the bill is passing through its various stages; and presenting itself in those different bodies in different points of view, its defects will be more likely to be detected, the tendency of its provisions more thoroughly investigated, and its terms accommodated to prevent the evil, or promote the good, at which it aims.

The several branches of the legislature in order to secure the permanency and rectitude of government, should be rendered independent of each other, and depend as much as may be, on different classes of electors for their elevation to office; in such manner as to combine different interests, and thereby form mutual checks among the members of the same branch, and of each branch on the other, to the end that among the conflicting interests and contending passions of individuals, they may never unite in measures subversive of the public good.

Introducing a Senate, chosen by a general ticket by the freemen of each county, and securing to each county, by at least one member, its separate right of representation; and apportioning the surplus number of Senators among the respective counties, according to the number of inhabitants in each; while the House of Representatives is composed of members from each town in the State; seemed better calculated to combine those interests, to form those checks, and secure the happy result sought for, than any other method, which could be devised by the Council of Censors.

In choosing a Council by a general ticket throughout the State according to the present constitution, the freemen are under the necessity, in most instances, of voting for men to important offices, with whom they are wholly unacquainted, and in this way unsuitable men, who could not obtain the suffrages of their acquaintance, have been preferred to and con-

tinued in office, by the influence of party nominations, to the detriment of the public interest. Members, thus chosen by a majority of the dominant party, feel themselves committed to act in favour of the measures proposed by the leaders of that party, and thus all check of one house upon the hasty proceedings of the other is destroyed.

The representation in the Senate by counties, as proposed in the amendments, will have the advantage of bringing home the candidates for office to the knowledge of the freemen. The local and county interests in the different parts of the State, will be represented and protected in the Senate; while those various interests will form a check among the respective members, and have a tendency to prevent the baneful effects of heat and party spirit in the councils of the State.

The power of appointment to office is the next leading feature in the proposed amendments.

The present constitution provides that the Governor, Council, and House of Representatives, in joint committee, shall by ballot choose all officers, &c. The evils resulting from this mode of appointment, are sufficiently obvious, from the experience of many years, to render some alteration not only expedient, but almost indispensable.

Ambition for office, which always prevails most among the most dissolute and unworthy members of society, has continually set in motion all the engines of wickedness and corruption. The business is at this day so systematized, that the people are rarely permitted to exercise their unbiassed judgments at their elections. Any aspiring man, who wishes to become a member of the Legislature, has nothing more to do to secure the utmost exertions of his ambitious neighbors in his favor, than to propose to them to vote for him on condition, that he will promote them to some office in the gift of the Legislature. When an individual is thus elected, and arrives at his seat in that body, his business is to secure his future election by fulfilling the expectation of his friends. He soon finds many who have procured their own elec-

tion by the same means, and who of course have the same motives for entrenching themselves in their seats, and who are alike prepared to barter for offices. The consequence is obvious—"You must nominate me, and I will nominate you; you must support my friends for judges, justices, and sheriffs, and I will support yours." And thus the work of corruption, begun among the people, runs through the whole body politic, of which the scene of operation is the capitol of the state.

For the truth of these remarks I appeal without fear of contradiction to all those within the hearing of my voice, who have at various times been members of the legislature. Say, ye votaries, ye devotees of faction of all political parties! ye advocates of popular elections; of elections to office by the voice of the legislature! how often have ye procured yourselves elected by means like these, and means more base? How often have ye repaid your more humble partizans for your elevation, by the sorry recompence of a yearly office? How often have ye from year to year traversed the round of infamy, deceiving and being deceived, at the expensive sacrifice of the welfare of your country? How often have ye been witnesses of the midnight scenes of electioneering, of caucussing for office, more vile and hateful than any nest of unclean birds? How often have ye partaken of these polluting feasts of selfishness and party spirit? How often have ye proscribed men of first rate talents and integrity, because they were not of your political party? Because they would not run with you to the same excess of riot and party spirit? Nay, how often have ye committed yourselves to support the doings of the majority of a caucus, and thus committed the keeping of your consciences to men, if possible, more corrupt than yourselves, and thus acted against the light, the convictions of your own consciences, till "the light, which was in you, has become darkness?"

I appeal also to the great body of the people, who can speak, if they will testify. Where are the men of modesty and merit, who by your discernment were

once drawn forth from their hiding places to lead in your councils, to preside in your assemblies, and in your courts of justice? Have they not given place to the more bold and daring spirits of party, men of no merit except what consists in a vain and presumptuos approbation of themselves, and a disposition to persecute and brand with opprobrious names all those, who are not of their political faith?

How comes it to pass, that the meanest, the lowest of the people bear rule over you, and are appointed to the offices of magistrates and conservators of the peace, while men of integrity and talents are of no account in the estimation of your rulers? Can ye account for these things except in the way already pointed out? These offices are often bestowed as the reward of corruption.

In all these scenes of traffic and bartering for office, there is little or no responsibility to the people. And that little is so divided as scarcely to be felt by any individual. There is no one to be called to account. There is no one, who is ostensibly, in any considerable degree, the author of the mischief. It is a well known fact, that large bodies of men will do these things collectively, and justify themselves by the countenance and support which they afford each other, which any individual of them would blush to do alone.

It must be confessed, that there is no subject in the science of government more difficult to provide for, than the power of appointment to office. Nor will it be pretended, that any mode is free from dangers and difficulties. Any mode, that can be devised, in as much as the power must be conferred on men possessing the selfishness and depravity of human nature, is but a choice of evils; yet let me beseech you to choose the least, or rather not to persist in the greatest.

The amendments provide, that the governor shall nominate, and by and with the consent of the senate, shall appoint all officers, &c.

The question for the decision of the people is, whether the mode proposed is not better calculated to

promote the public welfare, than the mode now in operation. The former is analogous to the mode of appointment under the federal constitution. It has therefore the sanction of the great and good men, who framed, and of the conventions, which adopted the federal constitution. It has received the approbation of WASHINGTON, and all the host of worthies, to whom I have alluded. It still enjoys the approbation of all the people of both political parties, in each of the states of the Union. It is also strikingly analogous to many of the constitutions of the individual states.

The governor is annually elected by the general voice of all the freemen, and to them is he immediately responsible. Thus situated, he will have every motive to nominate good men to office; men, who will be acceptable to the people; men, who will under his administration be popular. Should he not do so, the people will know to whom they are to look as responsible for the evils they endure, and will surely take their recompence by withholding from him their confidence and their suffrages. If such men are nominated to office, the senate will not readily assume the responsibility of rejecting the nominations, though the candidate be of political sentiments different from their own; especially, as they will not be indebted to a dominant party throughout the state for their elections, but to the people of their respective counties only. And thus men of ability, integrity, and moderation, of each political party will be likely to be preferred to office. These are the men, who in office will best promote the public welfare, and best secure the civil liberty of individuals, and the important interests of community.

It is easy to perceive, according to the foregoing reasoning, that the selfish and personal motives of the governor will coincide with his official duty, in promoting the best interests of the people. And, where personal motives prompt the individual to promote the public good, the highest possible security is afforded for the attainment of that end. I will suppose for instance the man best qualified for a

chief justice of the supreme court, as a man of integrity and abilities, is personally disagreeable to the governor, or is of different political sentiments, yet his character is such, that the people have the highest confidence in him as a judge; would not the governor from his high official standing, with a view to make his administration popular, be likely to forego his personal resentment or party feelings, and nominate such a man to this important office? Would not the senate be more likely to approve such nomination, though contrary to their personal and party feelings, than under almost any other circumstances? Such a disinterested proceeding would tend to allay the heat of party spirit among the people, to render popular the administration of the governor, and to raise high the tone of public confidence in the government. These are things, which above all others are most ardently desired by every wise and every good man.

Again, I appeal to the candor of every reflecting man, how would the case be in the committee of both houses of the legislature, were such a man to be proposed for that important office, who was of a political party different from the majority? Would they be as likely to appoint him as in the case supposed of the governor and senate? Would any individual member or even the whole body of the majority feel the same responsibility for rejecting him, and voting for a man of inferior talents?

If these questions cannot be answered in the affirmative, the point is gained, and this amendment will be favourable to the interests of the community.

The most important principle in the amendments remains yet to be discussed. I mean the permanency and independence of the Judiciary.

I approach this subject with the utmost confidence, not indeed in my own abilities to do it justice, but in the correctness of the reasonings of others, which have been so often and so successfully urged in support of the position, which I maintain; and in confidence, that the experience of other ages, states, and nations, confirm the reasonings on the subject.

To lead our minds into a proper train of thought on this interesting topic, let us take a momentary survey of human nature. Let us see of what frail materials judges must be made. Thence let us learn not to tempt men beyond what they are able to bear.

We are taught not only by the oracles of truth, but even heathen philosophy itself has learned, that "*it is the lot of humanity to err.*" A knowledge of ourselves and of human nature would teach the same important lesson. The constant springs of human action are selfishness and pride. The influence of prejudice and passion over the hearts of men, it is not in the power of language to describe. What we wish to be true, we readily believe. When we have the power, we are wont to justify the means of acquiring what we ardently desire. Our selfishness is so perfect in its dominion over us, that whatever affects us pleasantly is right, whatever disagreeably is wrong, till our own will and pleasure become the only rule of our moral, political, and religious conduct. From ourselves the descent is easy to our friends, our party. Prepossessions, naturally, arise in favour of ourselves, our friends, our party; and prejudices against those, who will not submit to our wishes, or who oppose the fancied interests of our friends or party. The disorder is so universal, that our jaundiced eye does not perceive the symptoms of disease. Interest leads the way, and calls in passion to her aid. Prejudice blinds the understanding, stills the voice of conscience, and malignity nerves the villain's arm for action.

No man may judge in his own cause, or that of his near relation. Is not this because he is supposed to have some partiality for, or dependence upon such near connections, which would tend to call his own corrupt and selfish passions into exercise? No man of common honesty, having a controversy with his neighbour, would offer to submit it to his own son, his tenant, or any other one, dependant on his pleasure for subsistence. Accordingly, we find in all despotic governments, where the judges depend wholly on the despot for the tenure and emoluments of office, that the tyrant's will is not only law, but his

breath conſtitutes the juſtice of the community. Can any one indicted for a crime expect an impartial trial before a tribunal, where the monarch, whoſe dependent creatures are the judges, is himſelf the proſecutor?

The ſame cauſe always produces the ſame effect. If ſo, then the principle of dependence will at all times have the ſame general tendency, on whatever man or body of men it may reſt.

Will any ſay, that the judges ſhould not be dependent on kings, tyrants, and deſpots; yet there is no danger in permitting them to depend on the people, or their immediate repreſentatives? Let me then refer you to the republics of ancient times. In moſt of them, the whole body of the people ſat in judgment, or committed their judicial authority to judges, choſen by themſelves, annually or oftener. The conſequence was, that, whenever deſigning men could render any one unpopular, whatever might have been his public ſervices, character, or conduct, accuſations under pretence of crimes were never wanting. He fell a ſacrifice to the fury of the people. Proſcription, baniſhment, or death was his portion at the hands of the judges or the people. It is needleſs to tell you, that the hiſtory of thoſe ſtates is filled with accounts of the moſt cruel perſecutions and final deſtruction of the very beſt of their citizens.

Was this, because there were pure republics, mere governments of the people, and that too in the early age of civilization, when the principles of government were not well understood? Let me then awaken your sensibility, by turning your attention to the late representative government of enlightened France. Do you not remember the tragical scenes, the mock trials, which took place in revolutionary times, before the National Assembly, and judges appointed by, and dependent on them? What will ye say, fellow citizens, to these things? Whither will you flee? Will ye attempt to hide yourſelves beneath the cobweb covering of your own fancied superiority of goodness and candour? Will ye say, we are not like the other nations of the earth, either ancient or modern; and thus attempt to warn yourselves by sparks of your

own kindling? It is not my business, nor my duty to flatter any man, more especially the people, Let me then remove the tinsel covering; let me draw the curtain, and show you to yourselves. I say nothing with intent to wound, nor "set down aught in malice." I beseech you, therefore, be not like "a natural man beholding his face in a glass," but survey attentive the frightful picture. Your seats of justice are polluted; the chambers of the judges of your supreme court of law and chancery have been visited by the dusty feet of suitors till they assumed the appearance of a grogshop. It has been no uncommon practice, for one of the parties, having suits pending before that tribunal, to consult the judges out of court before the trial, and in an exparte manner obtain assurances of success. Your judges have made it a common practice to go before the grand jury, and there with all their influence advocate the finding an indictment against an obnoxious individual. A crime for which any judge in England would be impeached, and disgracefully dismissed from office! but a corrupt court, with a corrupt grand jury were not alone sufficient to complete the work of malice and proscription. They have publicly exhorted you, in a numerous meeting of the members of the legislature to see to it, that none but men of a particular political cast should be put into the jury boxes—that they might have men to fill those sacred seats, who would become the humble, servile tools of party. Need I say more to satisfy your minds? Can more be said? Will ye believe me, should I proceed to declare, that this smoke of the bottomless pit, this fire of hell has begun to kindle among the people? that from many of our jury boxes in the various towns, a numerous class, composing near one half of the community, are entirely excluded? and that in other places violent struggles have been made to effect the same nefarious purpose? And is this the enlightened people, superior in virtue to any of ancient or modern times? The people, on whom the dependence of the judges may solely rest? Away, my countrymen, with such vain, such arrogant pretences.

Remember "we are all the degenerate plants of a ſtrange vine."

Let us turn from theſe diſguſting figures, this ſtench of infamy. Let us ſeek a remedy, which will relieve the community of theſe foul ſtains, theſe national crimes, which expoſe us to the diſpleaſure of heaven, and to the ſcorn and deriſion of the neighbouring ſtates. Let us learn the remedy, as well as the cauſe of the diſorder, from the hiſtory and experience of others.

I have ſaid, and I think proved, that a principle of dependence will always have the ſame general tendency on whomſoever it may reſt. This, and this, alone, is ſufficient to account for the corrupt ſtate of our judiciary as now deſcribed. It is not becauſe one party is worſe than another. It is owing to the dependent ſtate of the judges. A rare individual, of ſplendid talents and integrity may, now and then, appear, who would riſe above the influence of party and dependence; but this, in general, cannot be expected. Our judges are annually choſen by a majority of the legiſlature. As they depend on that body for their elections, ſo they depend, in a ſtriking degree, on the leading and principal members. Whatever principles are maintained by the leaders of the dominant party, muſt alſo be maintained by them; and in this way the framers of the laws by their humble tools, the judges, expound and enforce the laws. A few leading members have commonly influence enough to carry a vote in the legiſlature, and, of courſe, can put out the judges at pleaſure. Now ſuppoſe an action be pending between ſuch an influential member of the legiſlature, or ſome of his friends, and an obſcure member of ſociety; can it be expected that the judges can act without fear, favour, affection or hope of reward: Will not the forfeiture of their offices be the fruit of their temerity, if they decide againſt their maſter? Are not the cauſes of the poor, the widow, and the fatherleſs, in this way, often ſacrificed to the ambitious, to the violent partizan? No man could have attended our ſupreme court, years paſt, without obſerving the influence of theſe things. Suppoſe the

federalists ſhould ſo far prevail, as to have the appointment of the judges, and one of you, who is of the opposite party, should have a cause pending against some leading federalist; would you, in the present state of things, have the same confidence in the success of your cause, as you would were the judges appointed during good behaviour? If you would, let me tell you it is because you have more confidence in your political adversaries, than in your political friends. Suppose a man, who is obnoxious to the dominant party, be indicted for some supposed offence, while the judges are dependent on such party for their offices; can it be supposed that he will stand as fair a chance for an acquittal, as though the judges were not thus dependent? This is not a matter a question of party, but a matter of principle, and settled by experience.

When we consider the corrupt state of human nature, we shall perceive it to be our wisdom, so to place the judges, as to make it for their interest to administer justice with impartiality. We should make this the condition of the tenure of office. If men are selfish, and we make it for their interest to behave well, the result is rendered certain. We have all the security the nature of things can afford.

History informs, that in Great Britain this was a subject of contest for many years between the king and parliament. The judges were dependent on the crown. The parliament insisted on their being rendered independent; and never was civil liberty enjoyed there, till they effected this most important and desirable object. Since that event, a judge of the king's bench has been known to resist successfully an attempt of the king himself, to sit in judgment in a court of law; by telling him that, "though the king was the chief justiciar of the kingdom, yet he could administer justice only by the mouth of his judges." Justice is there administered, with equal hand, to the highest nobleman of the realm and the lowest peasant of the country.

Almost all the free governments, of modern times, have incorporated the principle of an independent ju-

diciary into their constitutions. The immortal Washington, and the convention, who passed the excellent constitution of the United States, have adopted the principle, and declared that the salaries of the judges shall not be diminished during their continuance in office.

All the states in the Union, if I remember correctly, except Connecticut, Rhode Island and this state, have made the same provision in their respective constitutions, and regard it as their birth right, the charter of their civil liberties. In Connecticut, though they have not adopted it in terms, yet they have from the first organization of the ſtate, practised on the same principle, by appointing the same men from year to year during good behaviour. In Rhode Island, where their judges are chosen annually, like ours, they are alike contemptible. The people of their own, and the neighbouring states, have no confidence in their proceedings. In every instance, where the courts have been appointed during good behaviour, without one exception, they have enjoyed the public confidence. This is true of the courts in Great Britain, the United States' courts, the courts in the different states in the Union, and in the British provinces. And this is equally the case whatever may be the political character of the judges. In the state of New York, the federalists have the most entire confidence in Judge Spencer, who is a determined republican; and, on the other hand, the republicans have equal confidence in Judge Kent, who is of the oppoſite political sentiments. In none of these cases is there any attempt at packing jurors; nor any question made whether they be of one political sentiment, or another. Every one supposes, that each party is alike entitled to justice, and that it will be administered alike by all.

I call upon you, fellow citizens, to compare the two pictures; they are faithfully drawn, choose for yourselves. Do you desire to have a court, which will be a tool of oppression and party; persevere in your present constitution. Do you wish to have

justice and judgment faithfully and impartially administered ; adopt the amendments. The difference pointed out, can be owing only to the different constitution of the courts in the several cases. I exhort you, my friends, of all political sentiments, not to neglect this favourable opportunity, while parties are nearly equal, to place your Judiciary on independent ground. Let each party remember, that though it may be a pleasant thing, though we may feel safe, to have the judges of our party and dependent on them ; yet the scene mey change ; they may become dependent on our adversaries. Let each resolve to make them independent of both. We are not acting merely for ourselves, but for posterity. Let us act wisely, while it is in our power to secure the good and avoid the evil. Let us remember that while the judiciary is dependent, it is a most dangerous and fatal engine of party, and that it may be wielded against ourselves. Let us not play with edged tools. Let us not destroy ourselves, our posterity, and offend our beneficent Creator, by laying motives before our judges to pervert justice and judgment.*

Gentlemen of the Washington Benevolent Society,

I am not a member of your body, nor intimately acquainted with the principles of your society. I can however, say, that so far as I know, I know of nothing to disapprove. If ye be the disciples of Washington, ye will do the works of Washington ; you will imitate him, in his ardent and disinterested love of country, and in his constant endeavours to

* It is worthy of remark that party ſpirit has raged with more virulence in the ſtate of Vermont, than elſewhere. This muſt probably be owing to the perſecuting ſpirit, which has ariſen out of the dependent ſtate of the Judiciary. This emboldens the violent and aſpiring of the dominant party to commence proſecutions and actions, which under other circumſtances would never be attempted. When men ſee their lives, reputation, and property ſacrificed at the ſhrine of party, it is impoſſible to repreſs their reſentment. Reſentment provokes renewed aggreſſion, and thus, provocation and reſiſtance inflame the paſſions till every man ſees an enemy in every political opponent, private confidence is deſtroyed, and the public mind is in a ſtate of conſtant irritation.

promote its welfare. His was not the spurious patriotism of more modern times. He did not trample on the rights and liberties of individuals, under pretence of promoting public good. He saw the public welfare, through the medium of personal and individual happiness. His love of the people was not proſtituted on some imaginary object, some fancied good, some chimera of a disordered brain. His capacious, his benevolent soul embraced, first the individual, then the community, and next the human race. He did not talk of the public good, and mean his own aggrandizement, or the support of his party. He did not, with patriotism on his tongue, vent the malice of his heart on his dependants, his servants, his slaves. He did not lead his slaves in the devious paths of infamy and vice. There is much reason to believe, that his morality was the morality of the gospel, his religion that of the heart.

Let me remind you, that such principles are from above, and come down from the Father of light, with whom there is no variableness, neither shadow of turning. Let me remind you while you profess to be the disciples of Washington; a greater than Washington is here. Let me exhort you to call no man master; for one is your Master, even Christ. That even an apostle is to be followed, no farther than he follows him, who came down from heaven; that all your political, moral, and even religious schemes, which are not built on the foundation of the apostles and prophets, Jesus Christ himself being the chief corner stone, will prove, but wood, hay, and stubble, which will be burnt up in the day of his wrath.

You have professed to be governed by the benevolent principles of Washington; give not your adversaries occaſion to aſk, "What do ye more than others?" Let your benevolence, your charity embrace not only your friends, but also your enemies, if such you have. Indulge not a ſpirit of intolerance towards those, who differ from you in political sentiments; for so did not Washington. He wept with

tears of compassion over the deluded multitude, deluded indeed by the intrigues of political quacks and demagogues. He pitied, he forgave those secret, those insidious, those hypocritical enemies, who eat bread at his table ; yet lift up the heel against him ; and sorrowed most of all, when he foresaw, that their intrigues would prove the bane, and effect the ruin of his beloved country. His capacious soul foresaw the evil days, in which we live ! He saw, he wept ! He wept in silence ! Yet afterwards he raised his warning voice ! What his mighty arm could not prevent, his generous soul has deprecated in the most moving strains of eloquence and love.

In all your political conduct, act with a view to the public good ; cultivate peace, union and harmony ; and if it be possible, as much as in you lies, live peaceably with all men. Be not Washingtonians, be not federalists for the sake of promotion : if ye act like demagogues, what are ye better than they ? Have any of you merit, are any of you qualified for office, blow not your own trumpet ; be assured the public will find you out. Rest quietly, in your respective private stations, till your friends, your neighbours, till the people call your modest virtues forth to light. Contend not with your political adversaries ; contend not with each other, for the mean, the sordid emoluments of petty offices ; leave these to sordid minds. When called to office, without your own exertion, perform its duties with punctuality and faithfulness ; yet covet not office. In the discharge of official duties, never ask "what will the people say ;" but inquire with earnestness what is duty. Remember that "the post of honor is the private station."

Fellow citizens of this assembly, bear with me a moment. Let me exhort you to unanimity. Let me beseech you avoid party spirit, as much as possible—act your sentiments with firmness, but act with candour. Make nothing a party question, which is not so in its nature. But above all things, let me entreat you, never to suffer the monster, party spirit, to

show his many heads in your temples of justice. The poison of asps is under his tongue. His touch is the hand of death. The goddess of Justice, with her golden balance, will flee before his face; and leave you all a prey to the devouring elements of human nature.

If the proposed amendments be of a general not of a party tendency, examine, weigh their merits, with candour, care, and attention. If the Council of Censors has proposed them, without regard to party or personal considerations, and with a view to the public welfare, act with equal disinterestedness in your deliberations upon them. Will it tend to restrain the licentiousness of party? Will they give permanency and stability, and diffuse a spirit of wisdom and moderation, to your legislative proceedings? Will they tend to bring the good, the wise, the moderate of both political parties into office; and thus allay the virulence of party spirit? Will they tend to the promotion of justice and impartiality, in the proceedings of your courts of justice? Will they have these effects upon your political institutions? You ought then to lay hold of them as for your lives. Let persons, of each political party remember, that parties are changeable as the wind. Though ours may be up to day; it may be down tomorrow. Will the amendments restrain the violence of my party, so, also, will they that of the other. Is the power of appointment in the hands of the Legislature, is the annual election of the Judges a powerful engine, in the hands of my party, so will it soon become in the hands of my opponents. Let us avoid the evil while we may. We have all the same interests to secure; on this subject, we ought to have but one voice. This should not be, the voice of party, but the voice of candour, of inquiry; the voice of wisdom. It is a well known fact, that the best, the most candid men of both political parties approve the leading principles of the amendments; and that these men do not intend to make them a party question. Those who oppose them take counsel of their fears or hopes. The

opposition is composed of the timid, who do not understand their tendency, and of the designing, who hope to profit by the present confused state of things. I beseech you, heed not the noise of demagogues, the scribblers in Newspapers. Fear not their raw head and bloody bones! Call upon them, to point out the evils resulting from like provisions in the constitutions of other States. Neither history, nor experience furnish a single instance, of an independent Judiciary, being made subservient to the intrigues of party, or the introduction of tyranny and despotism. I defy any man, to point his finger to a single instance. I defy any man, to show a single instance, where a dependent Judiciary has, for any length of time, maintained its rectitude, and not at length been made a tool of party, an engine of tyranny and oppression. The conclusion is inevitable, that those, who wish to have it remain dependent, do not understand its tendency, or wish to pervert, to corrupt its sacred use. They cry aloud, "great is the goddess Diana," because their craft is in danger. They are unwilling to put the power of appointment, in proper hands, they are unwilling to vest the necessary powers, and bestow necessary permanency of office, on the departments of government; because it will diminish their own fancied importance. "They are the people, and wisdom must die with them." They see a lion in the way—a lion in the streets! Fellow citizens, they deceive you; the lion which they see, has not the properties of the tiger, but the strength of the ox, the mildness of the lamb. If the amendments are adopted, they will have no more offices at their disposal, with which to corrupt the people, and secure their own undue elections. They will no longer have the offices of judges of the supreme court, to wield as an engine of party. They will no longer be able to controul the course of decisions, and thus corrupt the fountain and pollute the streams of justice.

I might proceed and examine, in detail, the amend-

ments of minor importance; but time will not permit. So far as I have had opportunity, I have discharged my duty on this subject. Go ye, examine, and with honesty to yourselves, and faithfulness to your children, to posterity discharge your own.

Thos Emerson

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